

DEC 29 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/733,706
Applicants : James E. Hagstrom
Filed : 12/11/2003
Art Unit : 1636
Examiner : Kaushal, Sumesh
Docket No. : Mirus.048.01

For: **A Process Of Delivering A Virally Encapsulated Polynucleotide Or Viral Vector To A Parenchymal Cell Via The Vascular System**

Commissioner for Patents
P.O. Box 1450
Alexandria VA, 22313-1450

**PETITION UNDER 37 C.F.R. § 1.78(a)(3) TO ACCEPT A DELAYED CLAIM
BENEFIT UNDER 35 U.S.C. 120 OF FILED COPENDING
NONPROVISIONAL APPLICATION**

Dear Sir:

Applicant hereby petitions in accordance with 37 C.F.R. § 1.78(a)(3) to claim the benefit for this application under 35 U.S.C. 120 as a continuation-in-part of application No. 10/628,734, filed July 28, 2003, which is a continuation-in-part of application No. 09/447,966, filed Nov. 23, 1999 claiming benefit to provisional applications 60/121,730, filed Feb. 26, 1999, and 60/146,564, filed Jul. 30, 1999; and, is a continuation-in-part from nonprovisional application 09/391,260, filed Sep. 7, 1999 which is a divisional from nonprovisional application 09/975,573, filed Nov. 21, 1997 now U.S. Pat. No. 6,265,387 issued Nov. 21, 1997, which is a continuation from 08/571,536, filed Dec. 13, 1995, abandoned.

01/05/2006 TLWU11 00000002 10733706
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PTO/SB/17p (11-05)

Approved for use through 07/31/2007. OMB 0851-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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| | | |
|--|----------------------|-------------------|
| PETITION FEE Under 37 CFR 1.17(f), (g) & (h) TRANSMITTAL (Fees are subject to annual revision) | Application Number | 10/733,706 |
| | Filing Date | 12/11/2003 |
| | First Named Inventor | James E. Hagstrom |
| | Art Unit | 1636 |
| | Examiner Name | Kaushal, Sumesh |
| Attorney Docket Number | | 48.01 |

Send completed form to: Commissioner for Patents
P.O. Box 1450, Alexandria, VA 22313-1450

Enclosed is a petition filed under 37 CFR §1.78(a)(3) that requires a processing fee (37 CFR 1.17(f), (g), or (h)). Payment of \$ 130.00 is enclosed.
 This form should be included with the above-mentioned petition and faxed or mailed to the Office using the appropriate Mail Stop (e.g., Mail Stop Petition), if applicable. For transmittal of processing fees under 37 CFR 1.17(i), see form PTO/SB/17i.

Payment of Fees (small entity amounts are NOT available for the petition fees)

☐ The Commissioner is hereby authorized to charge the following fees to Deposit Account No. _____:
☐ petition fee under 37 CFR 1.17(f), (g) or (h) ☐ any deficiency of fees and credit of any overpayments
 Enclose a duplicative copy of this form for fee processing.

☐ Check in the amount of \$ _____ is enclosed.

☒ Payment by credit card (Form PTO-2038 or equivalent enclosed). Do not provide credit card information on this form.

Petition Fees under 37 CFR 1.17(f): Fee \$400 Fee Code 1462

For petitions filed under:

- § 1.36(a) - for revocation of a power of attorney by fewer than all applicants
- § 1.53(e) - to accord a filing date.
- § 1.57(a) - to accord a filing date.
- § 1.182 - for decision on a question not specifically provided for.
- § 1.183 - to suspend the rules.
- § 1.378(a) - for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent.
- § 1.741(b) - to accord a filing date to an application under § 1.740 for extension of a patent term.

Petition Fees under 37 CFR 1.17(g): Fee \$200 Fee Code 1463

For petitions filed under:

- § 1.12 - for access to an assignment record.
- § 1.14 - for access to an application.
- § 1.47 - for filing by other than all the inventors or a person not the inventor.
- § 1.59 - for expungement of information.
- § 1.103(a) - to suspend action in an application.
- § 1.134(b) - for review of a request for extension of time when the provisions of section 1.136(a) are not available.
- § 1.295 - for review of refusal to publish a statutory invention registration.
- § 1.296 - to withdraw a request for publication of a statutory invention registration filed on or after the date the notice of intent to publish issued.
- § 1.377 - for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent.
- § 1.590(c) - for patent owner requests for extension of time in ex parte reexamination proceedings.
- § 1.958 - for patent owner requests for extension of time in inter partes reexamination proceedings.
- § 3.12 - for expedited handling of a foreign filing license.
- § 5.15 - for changing the scope of a license.
- § 5.29 - for retroactive license.

Petition Fees under 37 CFR 1.17(h): Fee \$130 Fee Code 1464

For petitions filed under:

- § 1.19(g) - to request documents in a form other than that provided in this part.
- § 1.84 - for accepting color drawings or photographs.
- § 1.81 - for entry of a model or exhibit.
- § 1.102(d) - to make an application special.
- § 1.135(c) - to expressly abandon an application to avoid publication.
- § 1.313 - to withdraw an application from issue.
- § 1.314 - to defer issuance of a patent.

Mark K Johnson

Typed or printed name

December 29, 2005

Date

35,909

Registration No., if applicable

This collection of information is required by 37 CFR 1.17. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 5 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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PAGE 4/10 * RCVD AT 12/29/2005 7:11:44 PM [Eastern Standard Time] * SVR:USPTO-EFXXF-6/24 * DNIS:2738300 * CSID:6084412849 * DURATION (mm:ss):02:16

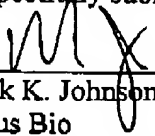
Applicant states that the entire delay between the date the claim for the benefit of the earlier application was due under paragraph (a)(2)(ii) of 37 C.F.R. § 1.78 and the date this claim is filed was unintentional.

Enclosed is a credit card pay form, please charge the amount of \$130.00 to cover the petition fee as set forth in § 1.17(h).

Please forward the attached amendment and response to the Examiner.

If there are any questions, please contact the undersigned.

Respectfully submitted,



Mark K. Johnson Reg. No. 35,909
Mirus Bio
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Madison, WI 53719
608-238-4400

I hereby certify that this correspondence is being sent
by facsimile transmission to: Commissioner for
Patents, PO Box 1450, Alexandria, VA 22313-1450
on this date: December 29, 2005.



Mark Johnson